

CONSENT DECREE**I. Introduction**

1. This Consent Decree is entered into by: the Media Bureau of the Federal Communications Commission; and Michael H. Glass, licensee of Station WMER(AM) Meridian, Mississippi.

II. Definitions

2. For the purposes of this Consent Decree, the following definitions shall apply:

- (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. §§151 *et seq.*;
- (b) “Bureau” means the Media Bureau of the Federal Communications Commission;
- (c) “Commission” or “FCC” means the Federal Communications Commission;
- (d) “Compliance Plan” means the compliance plan provided in the Appendix hereto;
- (f) “Effective Date” means the date on which the Bureau releases the Order;
- (g) “Final Order” means the status of the Order after the period for administrative and judicial review has lapsed;
- (h) “Forfeiture Order” means that certain Commission Order released June 2, 2008, in FCC File No. EB-07-OR-140, NAL/Acct. No. 200832620004, concerning the Violations and issuing a monetary forfeiture in the amount of one thousand five hundred dollars(\$1,500) to Licensee.
- (i) “Investigation” means the Bureau’s investigation of information contained in the Renewal Application;
- (j) “Licensee” means Michael H Glass, licensee of Station WMER(AM) Meridian, Mississippi;
- (k) “Order” means an order of the Bureau adopting this Consent Decree;
- (l) “Parties” means the Bureau and the Licensee;
- (m) “Renewal Application” means the FCC Form 303-S application filed by Licensee for renewal of its license for the Station (File No. BR-20120208ADO);
- (n) “Rules” means the Commission’s regulations set forth in Title 47 of the Code of Federal Regulations;

(o) “Station” means Station WMER(AM) (Facility ID No. 48542), licensed to Meridian, Mississippi;

(p) “Violations” means the violation of Sections 11.35 and 73.1745(a) of the Rules and Section 301 of the Act as set forth in the Forfeiture Order;

III. Background

3. On March 6, 2008, the Commission’s Enforcement Bureau issued a *Notice of Apparent Liability* in the amount of \$16,000 to Licensee for failure to have an operational Emergency Alert System (“EAS”), failing to operate within authorized power limitations, and failing to have a license for the Station’s microwave studio-to-transmitter link.¹ The Forfeiture amount was subsequently reduced to \$1,500 based on the licensee’s perceived ability to pay.² On February 8, 2012, Licensee filed the Renewal Application. Thereafter, during its Investigation, the Bureau determined that Licensee had not yet remitted payment of the monetary forfeiture for the Violations as directed by the Forfeiture Order and that, after the Office of the United States Attorneys declined to institute collection procedures based on the amount involved, the FCC had cancelled the unpaid forfeiture.

4. Licensee has committed to make a voluntary contribution to the United States Treasury equal to the unpaid monetary forfeiture as part of this Consent Decree. Licensee also has committed to implement and adhere to the Compliance Plan, which is incorporated by reference into this Consent Decree.

5. Because of the issues identified in the Bureau’s Investigation, the Parties have agreed to enter into this Consent Decree to which Licensee and the Bureau intend to be legally bound.

IV. Agreement

6. The Parties acknowledge that any proceeding that might result from the Investigation will be time-consuming and will require the expenditure of public and private resources. In order to conserve such resources and to promote future compliance by Licensee with the Act and the Rules, the Parties are entering into this Consent Decree in consideration of the mutual commitments made herein.

7. The Parties agree to be legally bound by the terms and conditions of this Consent Decree. Licensee and the Bureau each represents and warrants that its signatory is duly authorized to enter into this Consent Decree on its behalf. Licensee agrees that the Commission has jurisdiction over the matters contained in this Consent Decree and the authority to enter and adopt this Consent Decree.

8. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between them concerning the Bureau’s Investigation of the matters discussed herein. The Bureau finds that its Investigation raises no substantial and material questions of fact as to whether Licensee possesses the basic qualifications, including those relating to character, to be a Commission licensee.

¹ Michael H. Glass, Notice of Apparent Liability for Forfeiture (EB Mar. 6, 2008).

² Michael H. Glass, Forfeiture Order, 23 FCC Rcd 8495 (EB 2008)

9. The Parties agree that this Consent Decree shall become effective on the Effective Date. Upon the Effective Date, the Order and this Consent Decree shall have the same force and effect as any other order of the Bureau. Any violation of the terms of this Consent Decree shall constitute a separate violation of a Bureau order, entitling the Bureau or the Commission to exercise any rights and remedies attendant to the enforcement of a Bureau order.

10. As part of the Order, the Bureau shall terminate the Investigation. Additionally, the Bureau shall grant the Renewal Application after the Effective Date, provided that the following conditions have been met: (1) the voluntary contribution referenced in Paragraph 13 below has been fully and timely satisfied; and (2) there are no issues that would preclude grant of the Renewal Application. In the event that there are issues that would preclude the grant of the Renewal Application, the Renewal Application will remain pending.

11. From and after the Effective Date, the Bureau shall not, either on its own motion or in response to third-party objection, initiate any inquiries, investigations, forfeiture proceedings, hearings, or other sanctions or actions against Licensee, or the Station, based in whole or in part on the Investigation. The Bureau agrees that, in the absence of material new evidence, it will not, on its own motion, initiate or recommend to the Commission, any new proceeding, formal or informal, regarding the matters discussed in this Consent Decree, with regard to any violations of the Act, the Rules, or Commission policy, that occurred prior to the Effective Date. The Bureau further agrees that, in the absence of material new evidence, it will not use the facts developed in the Investigation prior to the Effective Date to initiate on its own motion, or recommend to the Commission, any proceeding, formal or informal, or take any action on its own motion against Licensee with respect to their respective basic qualifications to control and operate the Station. Nothing in this Consent Decree shall prevent the Bureau from instituting, or recommending to the Commission, new investigations or enforcement proceedings against Licensee, in the event of any alleged future misconduct, for violation of this Consent Decree, or for violation of the Act or the Rules, consistent with the provisions of this Consent Decree.

12. Licensee stipulates that it violated the requirements of Sections 11.35 and 73.1745(a) of the Rules and Section 301 of the Act during the current license term and, further, that the Station now complies with said requirements in all material respects..

13. Licensee hereby agrees agree to make a voluntary contribution to the United States Treasury in the total amount of One Thousand Five Hundred Dollars (\$1,500). Such contribution is due within thirty (30) days after the Effective Date. The payment must include the Account Number and FRN referenced in the caption to the Order. Payment by check or money order may be mailed to Federal Communications Commission, at P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank—Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank: TREAS NYC, BNF: FCC/ACV--27000001 and account number as expressed on the remittance instrument. If completing the FCC Form 159, the remitting party must enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). On the date of the payment, electronic notification must be sent to Heather.Dixon@fcc.gov and Penelope.Dade@fcc.gov.

14. Licensee represents that it has adopted, and is currently in the process of implementing, a compliance plan for the purpose of preventing future violations of the Act and of the Rules. A summary of the plan is set forth in the Appendix. Licensee agrees, to the extent that it has not already done so, to implement the Compliance Plan and to keep such Compliance Plan in effect for three (3) years thereafter.

15. Licensee agrees that it is required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. To the extent that Licensee fails to satisfy any condition, in the absence of Commission alteration of the condition, it will be deemed noncompliant and may be subject to possible enforcement action, including, but not limited to, designation of the matter for hearing, letters of admonishment, or forfeitures.

16. Licensee waives any and all rights that it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order, provided that the Order adopts the Consent Decree without change, addition or modification.

17. Licensee waives any claims that it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 et seq., relating to the matters discussed in this Consent Decree.

18. If any Party (or the United States on behalf of the FCC) brings a judicial action to enforce the terms of the Order, none of the Parties shall contest the continuing validity of the Consent Decree or the Order. Licensee and the Bureau further agree that they will waive any statutory right to a trial *de novo* with respect to any matter upon which the Order is based (provided in each case that the Order is limited to adopting the Consent Decree without change, addition, or modification), and that they will consent to a judgment incorporating the terms of this Consent Decree.

19. In the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, this Consent Decree shall become null and void and may not be used in any manner in any legal proceeding.

20. This Consent Decree may be signed in counterparts and/or by telecopy and, when so executed, the counterparts, taken together, will constitute a legally binding and enforceable instrument whether executed by telecopy or by original signatures.

MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION

William T. Lake, Chief

Date

Michael H. Glass, Licensee

Date

APPENDIX**COMPLIANCE PLAN FOR STATION WMER(AM)**

Licensee, or its successor-in-interest, will institute the following procedures with regard to Station WMER(AM) to ensure compliance with the Commission's Rules and the Communications Act of 1934, as amended. Unless otherwise provided, all terms defined in the Consent Decree apply to this Compliance Plan.

1. Licensee will conduct training for all Station employees and management on compliance with FCC Rules applicable to Station operations, particularly those related to operation and maintenance of the Station's Emergency Alert System, and operation at authorized power levels. It will designate a management-level employee as a Compliance Officer responsible for responding to Station employee questions and consulting with outside counsel familiar with communications law regarding compliance matters. Licensee will conduct refresher training for Station employees and management at least once every twelve (12) months, and will train any new Station employee within ten (10) business days commencement of his or her duties at the Station.

2. Licensee shall engage FCC counsel on an ongoing basis to provide guidance on FCC compliance issues, to provide regular updates and notices on developments in communications law applicable to the Station and the Station's operations, and to review Licensee's applications and reports prior to filing with the FCC.

3. For a period of three years from the Effective Date, Licensee or successor licensee, shall commission the Mississippi Association of Broadcasters to conduct an in person inspection of the facilities of the Station under an Alternative Broadcast Inspection Program. Alternatively, the Licensee or successor licensee shall commission its FCC counsel to conduct an in-person inspection of the Station facilities in conjunction with a qualified technical consultant, which may include the Station's Chief Operator. The initial inspection shall be completed within three months following the Effective Date of the Consent Decree. The second and third annual inspections shall be conducted during the same calendar month as the first inspection. The inspection requirement shall terminate on the successful completion of the third annual inspection.

4. Licensee shall submit reports to the FCC on a quarterly basis during the three-year term of this Compliance Plan. These reports shall include an affidavit or declaration to the Bureau, signed by Licensee, certifying that, since the commencement of this Compliance Plan or the filing of the last such report, if any, the Station is in compliance with the Rules and is in compliance with the Consent Decree. The affidavit or declaration shall specifically address whether the Station has exceeded its authorized power levels. The reports also shall include a summary of all actions related to operation and maintenance of the Station's Emergency Alert System. In the event that Licensee is unable to certify to its compliance with the Rules, it will disclose the reasons therefore and indicate what steps it has taken to render its operation of the Station in compliance with the Act, the Rules, and FCC Policy. In regard to the last matter, Licensee recognizes and acknowledges that any and all information provided to the FCC must completely and candidly set forth all relevant facts and circumstances, regardless of whether such submission may disclose a violation of the Act or Rules.